

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF INDIANA
FORT WAYNE DIVISION

ERIC LEON JOHNSON,)
Plaintiff,)
v.) CIVIL NO. 2:14-cv-249
THE CITY OF SOUTH BEND,)
INDIANA *et al.*,)
Defendants.)

DEFENDANTS' MOTION FOR SUMMARY JUDGMENT

Defendants, by counsel, and pursuant to Fed. R. Civ. Procedure Rule 56, move for judgment against Plaintiff as a matter of law and in support state:

1. On July 17, 2014, Plaintiff filed a *Pro Se* Complaint against Defendants alleging the officers and City violated his 4th, 5th, 6th and 14th amendment rights when they allegedly illegally entered his home on multiple occasions from January 2004 to March, 2004 and either stole from him, wrongfully arrested him, or destroyed his property. [DE #1.]

2. After a Motion to Dismiss was filed and granted, the Plaintiff appealed the matter, which was remanded to the trial court after the dismissal was reversed.

3. Plaintiff's claims all stem from actions that allegedly occurred in 2004. However, Plaintiff did not bring this lawsuit until 2014; over ten (10) years after the alleged incidents.

4. "Suits under § 1983 use the statute of limitations and tolling rules that the states employ for personal injury claims." *Richards v. Mitcheff*, 696 F.3d 635, 637 (7th Cir. 2012).

5. Indiana's personal injury statute of limitations is two years. Ind. Code § 34-11-2-4.

6. Since Plaintiff did not file this claim until well over the two years statute of limitation, the Complaint is untimely filed, and Plaintiff cannot obtain relief.

7. A Memorandum of Law in Support of the Motion for Summary Judgment is filed contemporaneously herewith, and incorporated herein by reference.

WHEREFORE, Defendants, by counsel, respectfully request the Court enter judgment in favor of Defendants and against Plaintiff, and dismiss Plaintiff's Complaint with prejudice, and for all other just and proper relief.

Respectfully submitted,

/s/ Stephanie L. Nemeth
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CERTIFICATE OF SERVICE

I, the undersigned, hereby certify that on the 4th day of April, 2017, I electronically filed the foregoing with the Clerk of the Court. I further hereby certify that I have mailed by United States Postal Service to the following non-CM/ECF participants:

Eric Leon Johnson
3280 Pierce Street, Apt. 615
Gary, IN 46408

s/ Stephanie L. Nemeth
Stephanie L. Nemeth (#25721-71)